IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.R.UDAYABHANU

TUESDAY, THE 10TH JULY 2007 / 19TH ASHADHA 1929

Crl.Rev.Pet.No. 460 of 1999()

CC.482/1991 of SESSIONS COURT, KOTTAYAM
CRA.73/1994 of JUDL. MAGISTRATE OF FIRST CLASS, VAIKOM

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REVN. PETITIONER:

NARAYANAN, SON OF UNNEERI,
VARISSERI VEEDU,
MAMALA BHAGOM,
KAKKATTUKARA, KUNNATHUNADE VILLAGE.

BY ADV. SRI.S.VIJAYAKUMAR

RESPONDENTS:

STATE OF KERALA REPRESENTED BY THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA,
ERNAKULAM.

BY PUBLIC PROSECUTOR, SRI C.K.SURESH

THIS CRIMINAL REVISION PETITION HAVING BEEN FINALLY HEARD ON 10/07/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

ORDER ON C.M.P.NO.2006/1999 IN CRL.R.P.NO.460/1999

CLOSED

SD/-K.R.UDAYABHANU, JUDGE

10/07/2007

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K.R.UDAYABHANU, J.

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Crl.R.P.No.460 of 1999

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Dated this the 10th day of July, 2007

O R D E R

The revision petitioner, who is the accused in C.C.No.482/1991 in the file of the Judicial Magistrate of the First Class, Vaikom, stands convicted for the offences under Sections 279 and 337 I.P.C and sentenced to undergo rigorous imprisonment for three months for the offence under Section 279 I.P.C and rigorous imprisonment for one month for the offence under Section 337 I.P.C.

2. The prosecution case is that the accused drove KLU 514 lorry through Vaikom-Ernakulam road from south to north in a rash and negligent manner so as to endanger human life on 07/02/1991 at 6.30 p.m. and hit on an electric post, causing damage to the same, went forward and went inside the shed wherein CW.1/PW.1 was sitting and hit him causing injury to his left shoulder and head and causing damage to the shed to the

tune of Rs.4000/-. The lorry thereafter went ahead and hit on a private hospital causing damage to the tune of Rs.20000/-.

3. The evidence adduced in the matter consisted testimony of PWs.1 to 10 and Exts.P2 to P7.

4. The evidence of PW.8, the A.M.V.I, and Ext.P4 the report of the A.M.V.I indicate that there was no mechanical defect to the vehicle. The witnesses PWs.2 and 3 have testified that the lorry was driven in excessive speed. PW.4 the Assistant Engineer, K.S.E.Board, has testified that the damage sustained to the electric post and the loss occurred amounts to Rs.1000/-. PW.1, the injured has identified the accused/revision petitioner; so also PW.2 the occurrence witness. PW.3 another occurrence witness has also identified the accused. Hence, I find that the evidence as to the identity and that the vehicle had any mechanical defect stands unimpeached. For the above said reasons, I find no grounds to interfere with the order of the court below. Conviction is confirmed.

5. However, the learned counsel for the revision petitioner has sought for modification of the sentence pointing out that the incident has taken place in February 1991 and about 16 years have elapsed since then and that the accused was facing the criminal proceedings so far.

In the circumstances I find that the sentence is liable to be modified. The sentence imposed for the offence under Section 279 I.P.C is modified to pay a fine of rupees one thousand and in default to undergo simple imprisonment for two weeks. The sentence imposed for the offence under Section 337 I.P.C is modified to pay a fine of rupees five hundred and in default to undergo simple imprisonment for ten days.

The criminal revision petition is disposed of accordingly.

K.R.UDAYABHANU,
Judge

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K.R.UDAYABHANU, J.

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Crl.R.P.No.460 of 1999

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O R D E R

10th July, 2007